

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ONE BEACON AMERICA INSURANCE CO,

Plaintiff,

v.

CROSBY YACHT YARD, INC.

Defendant.

Civil Action No.
05-10363-GAO

**DEFENDANT CROSBY YACHT YARD, INC.'S OPPOSITION TO PLAINTIFF'S
MOTION FOR CONSOLIDATION OF ACTIONS**

NOW COMES the defendant, Crosby Yacht Yard, Inc. (hereinafter, "Crosby"), by and through its undersigned attorneys, and submits its opposition to the Plaintiff's Motion for Consolidation of Actions. The Motion should be denied for the following reasons:

1. This Motion should have been filed in the previously filed action of Standard Fire Insurance Company v. Crosby Yacht Yard, Inc. and Oyster Harbors Marine, Inc., Civil Action 04-12244-GAO. Local Rule 40.1(J) provides that a Motion for Consolidation of two (2) or more cases shall be made in the case first filed in this Court. (emphasis added).

2. The Motion should be denied because there was no conference of counsel as required by Local Rule 7.1(a)(2).

3. Crosby acknowledges that the cases are related, as they involve the same fire. Crosby further acknowledges that the Standard Fire and Ace American matters have been consolidated. However, Crosby objects to the cases being consolidated and submits this opposition to be consistent with its earlier filed opposition to the consolidation of Standard Fire and Ace American cases.

4. The two cases involve different plaintiffs, who insured different vessels, which had different degrees of damage and were valued in different amounts. Consolidation would be inappropriate under these circumstances. Forsythe v. Sun Life Financial Inc., et al, 2005 WL 81576 (D. Mass. 2005), Servants of the Paraclete, Inc., 866 F.2d at 1572, 1573.

WHEREFORE, defendant Crosby prays that the Plaintiff's Motion for Consolidation of Actions be denied.

By its attorney,

/s/ Seth S. Holbrook
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Certificate of Service

I hereby certify that on September 16, 2005, I electronically filed Defendant Crosby Yacht Yard, Inc.'s Opposition to Plaintiffs' Motion for Consolidation of Actions with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Robert E. Collins, Clinton & Muzyka, P.C., One Washington Mall, Suite 1400, Boston, MA 02108.

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